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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,876	04/27/2001	Steven P. Ungetheim	93214.032	1747

7590

10/16/2002

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EXAMINER

WERNER, FRANK E

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 10/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on July 30, 2002

☒ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1835 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-10 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-10 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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1. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re base claim 1, no minivan structure (body, wheels, etc.) and no ramp structure have been set forth rendering the claim incomplete; furthermore, it is not understood in the absence of structure, how the drive mechanism is coupled to the ramp; in line 6, "the floor" lacks antecedent basis. Re claim 3, it is not understood where (and how) structurally the lever arm is coupled to the folding ramp. Re claim 4, it is not understood where (and how) structurally the sensing switch is coupled to the drive shaft and it is not understood how the ramp is extended in the absence of structure therefor. Re claims 5 and 7, it is not understood how the folding ramp is braked and moreover, it is not understood how the ramp is extended. Re claim 8, it is not understood how the ramp is extended manually.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tidrick et al (,329 – cited by Applicant) in view of Oudsten et al (,908) or Peterson, Jr. et al (,545).

Tidrick et al disclose in a minivan, a foldable ramp 10 mounted on hinge 28 moved by rotary motor 31 connected to shaft 28, but the motor is not beneath the floor which is disclosed by Oudsten et al (rotary motor 44A in Fig. 9 and the discussion in column 7, lines 30-35) or Peterson, Jr. et al (14, 18, etc.) and in view of the same, it would have been obvious to have substituted an underfloor ramp mounting in order to create greater interior minivan space as taught by either secondary reference. Re claims 2-4, 6, 9 and 10, respectively, it would have been obvious to have substituted the conventional claimed drive mechanism, to have included the conventional claimed sensing switch, bearings, resistor and diode<sup>etc.</sup> depending on the requirements of the folding ramp drive. Re claims 5, 7 and 8, Tidrick et al teach the desirability of dynamically braking the ramp in at least column 2, lines 35 and 36. Further, it would have been obvious to have conventionally operated the ramp (as claimed), if desired.

5. Applicant's arguments filed July 30, 2002 have been fully considered but they are not persuasive.

Re Applicants' "Remarks" on pages 3 and 4, no minivan structure (as noted above) has been set forth thus leading to speculation and conjecture as to what environment the ramp operates. Moreover, "the claimed subject matter, not the specification, is the measure of invention. Limitations in the specification cannot be read into the claims for the purpose of avoiding the prior art." (and "112" rejections). In re Self, 213 USPQ 1, 5 (CCPA); In re Priest,

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199 USPQ 11, 15 (CCPA 1978). Further, re the "Remarks" on page 4, the secondary references have been cited for the reasons as set forth above.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. E. Werner whose telephone number is (703) 308-1140. The examiner can normally be reached on Wednesday to Friday from 5:30 a.m. to 6 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis, can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Werner/kl  
October 10, 2002

*Frank E. Werner*  
10/02  
FRANK E. WERNER  
PATENT EXAMINER  
3652